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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/026,835	BEST ET AL.	
	Examiner	Art Unit	
	Michael Van Handel	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-11 and 13-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-11 and 13-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks Regarding June 13, 2006 Interview

1. In the response filed 4/20/2007, the applicant states "participants discussed that the reference to Frengut is limited to a customized interface to a computer network triggered by 'conventional means' and not vie 'remote presence detection.'" For clarification sake, the examiner points out that, although the applicant made the above statement, the examiner maintained that the conventional means discussed (a keyboard and/or mouse) was equivalent to a remote presence detector as claimed at the time. The applicant also states "that participants discussed ... that the assertion that the 'setting time of day preferences' in Gutta #2 did not equate to a 'time field to store at least one of time value and time range value.'" Again, for clarification sake, the examiner points out that, although the applicant made the above statement, the examiner maintained that the setting time of day preference in Gutta #2 was equivalent to a time field to store at least one of time value and time range value as claimed at the time. The applicant further states that "participants did not agree on allowability; however, participants did agree to claim amendments to overcome the cited references." Again for clarification sake, the examiner points out that the participants agreed that "amendments must be made to the claims to overcome the cited prior art" as noted in the Interview Summary mailed 6/23/2006; however, the applicant and examiner failed to agree on a particular amendment that would overcome the cited references.

Response to Amendment

1. This action is responsive to an Amendment filed 4/20/2007. Claims **1, 4-11, 13-47** are pending. Claims **1, 4-6, 9, 11, 15-17, 21, 25, 33** are amended. Claims **45-47** are new. Claims **2, 3, 12** are canceled.

Response to Arguments

1. Applicant's arguments regarding claims **1-3, 7-11, 15, 16,** and **18-22**, filed 4/20/2007, have been considered, but are moot in view of the new ground(s) of rejection.

2. Applicant's arguments regarding claims **4, 23-25, 27, 32-35,** and **39-44**, filed 4/20/2007, have been fully considered, but they are not persuasive.

Regarding claims **23, 24, 27, 32-35,** and **39-44**, the applicant argues that Frengut et al. is limited to a "conventional means" of accessing the Internet and fails to disclose, teach, or suggest: (1) remote presence detector detecting presence of a user in a vicinity proximate to the information delivery system while the user is not in physical contact with each of the information delivery system and the remote presence detector, the remote presence detector creating a presence indicator, (2) the remote presence detector further communicating the presence indicator to the information delivery system, the information delivery system executing an information delivery action, and/or (3) the information delivery action comprising a time value for executing the action, and a time range value for maintaining the action. Regarding (1) and (3), the examiner notes that the applicant has not amended claims 23, 24, 27, 32-35, and 39-44 to recite these features. Regarding (2), the examiner respectfully disagrees. As noted by the examiner in the June 13, 2006 interview, the examiner interprets "conventional means" of accessing the Internet using a browser in a computer to involve keyboard and/or mouse inputs.

Frengut et al. discloses that a user enters his/her username and password. A host server then accesses the user profile associated with the user and generates a custom web page for the user according to the layout and content preferences indicated in the user profile. The custom web page is then presented to the user (p. 2, paragraph 26). As such, the examiner maintains that Frengut et al. discloses a remote presence detector communicating a presence indicator to an information delivery system, the information delivery system executing an information delivery action, as currently claimed.

Regarding claims **4** and **25**, the applicant argues that Gutta et al. (I) (US 2002/0144259) does not disclose a visible light spectrum detector. The examiner respectfully disagrees. As noted in the Office Action mailed 4/20/2006, Gutta et al. (I) discloses a camera for capturing image or video information to identify one or more predefined user activities or events (p. 1, paragraph 13). Since, the camera monitors the user activities, the examiner interprets the camera as detecting visible light. Furthermore, the examiner notes that the applicant claims the visible light spectrum detector as comprising a video camera in claim 5. Thus, the examiner maintains that a camera for capturing video information of Gutta et al. (I) meets the limitation of a visible light spectrum detector, as currently claimed.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims **21, 25, 45-47** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claim **21**, the claim recites "the information delivery system comprising a computer, an internet appliance, a web television system, a home entertainment system, an audio system, an audio-video system, a television system, and a stereo system." The examiner notes; however, that the applicant's specification describes an information delivery system as a computer, and further goes on to state that additional information delivery systems in accordance with embodiments of the invention include televisions, radio receivers, stereos, video systems, audio systems, audio-video systems, and so on (p. 5, paragraphs 18, 19). The specification also states that, in an embodiment, computer 210 is an Internet appliance (e.g. a web appliance)(p. 13, paragraph 32). The specification further states that a location (e.g. a residence, an office, a house, an apartment, a corporation, etc.) can include one or more information delivery systems. Examples of information delivery systems include audio information delivery systems, video information delivery systems, audio-video information delivery systems, text delivery systems, graphics delivery systems, facsimile delivery systems, multimedia delivery systems, broadband data delivery systems, a combination thereof, and so on. This is illustrated in Fig. 8, which is a schematic diagram of embodiments of the invention (p. 18, 19, paragraph 39). The examiner notes that the applicant's specification consistently describes an information delivery system as one of the devices above, and never describes an information delivery system as being comprised

of all of the claimed items. The examiner acknowledges that in one embodiment of the invention, computer 870 can be a home entertainment server that is coupled to television 850, set-top box 852, stereo system 860, and other information delivery systems (p. 22, 23, paragraph 43); however, not all of the claimed elements exist within this configuration and the specification does not describe this arrangement as a single information delivery system. In light of the above, the examiner addresses the information delivery system as comprising one of the claimed elements in the Office Action below.

Referring to claim **25**, the claim recites "the remote presence detector comprising an ultrasonic presence detector, an infrared presence detector, a radio frequency presence detector, and a visible light spectrum detector." The examiner notes; however, that the applicant's specification describes a number of examples of remote presence detectors, including ultrasonic detectors, infrared motion detectors, narrow beam microwave systems, video camera detectors, and RFID detectors (p. 6, 7, paragraphs 20, 21). The applicant's specification further states that a computer can be coupled to one or more presence detectors (p. 8, paragraph 23). The examiner notes that the applicant's specification consistently describes a remote presence detector as one of the above devices, and never describes a remote presence detector as being comprised of all of the claimed elements. In light of the above, the examiner addresses the remote presence detector as comprising one of the claimed elements in the Office Action below.

Referring to claims **45-47**, the claims recite that an information delivery action comprises "refreshing a web page, deactivating a screen saver, requesting information from a predetermined network address, requesting e-mail messages, executing an application, powering on the information delivery system, adjusting the volume of an information delivery system,

tuning the information delivery system to select a channel, exiting a power-saving mode, exiting a hibernation mode, and sending a user status indicator to a server based at least in part on the presence detector." The examiner notes; however, that the applicant's specification describes a number of examples of information delivery actions in a number of different environments. In a computer embodiment, for example, a user can configure a computer to request and display information (e.g. a web page, a stock quote, a video image, etc.), the most recent or current version of the information, to refresh a current web page, to retrieve a user's homepage, launch applications, send/receive e-mail, etc. (p. 3, paragraph 20; p. 5, paragraphs 27-29; & Table 2). In a set-top box example, the set-top box can be instructed to turn on the television, tune to a specified channel, and adjust the volume of the television when a user is detected (p. 5, 6, paragraph 19 & Table 3). The examiner notes that the applicant's specification consistently describes an information delivery action as one of the above described actions, and never describes an information delivery action as being comprised of all of the claimed actions. The examiner further notes that particular actions appear to be associated with particular information delivery systems. Furthermore, a number of the claimed actions appear to be mutually exclusive, that is, unable to perform in one action (i.e. powering on an information delivery system, exiting a power-saving mode, and exiting a hibernation mode). In light of the above, the examiner addresses the information delivery action as comprising one of the claimed actions in the Office Action below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **23, 24, 27, 28, 32-35, 39-44, 47** are rejected under 35 U.S.C. 102(e) as being anticipated by Frengut et al. (US 2002/0046099).

Referring to claims **23, 32, 39-44**, Frengut et al. discloses a method/system of remote presence recognition information delivery, the method comprising:

- operating a remote presence detector coupled to an information delivery system; determining that a user is in the vicinity of the information delivery system based at least in part on receiving a presence indicator from the remote presence detector (the user accesses the system web site using conventional means of Internet access (keyboard and/or mouse) and enters a user name and password)(p. 2, paragraph 26 & p. 3, paragraph 30); accessing user profile data (p. 3, paragraph 27), the user profile data including one or more information delivery action records; identifying an information delivery action record based at least in part on the presence indicator; and executing an information delivery action based at least in part on the identified information delivery action record)(p. 2-5, paragraphs 26, 30, 32, 40).

Referring to claim **24**, Frengut et al. discloses the method of claim 23, wherein the information delivery system includes:

- a processor coupled to a memory, the memory storing instructions configured to be executed by the processor (user profile database 50), the processor coupled to a network port, the network port to receive information from a network (p. 3, paragraph 27 & Fig. 1A); and
- a web browser, the web browser to request web page information via the network port based at least in part on the presence indicator (p. 2, paragraph 26 & p. 8, paragraph 63).

Referring to claim **33**, Frengut et al. discloses the method of claim 32, the first information delivery action comprises at least one of refreshing a web page, deactivating a screen saver, requesting information from a predetermined network address (request to the host to generate the user's custom page), requesting e-mail messages, executing an application, powering on the information delivery system, adjusting the volume of an information delivery system, tuning the information delivery system to select a channel, exiting a power-saving mode, exiting a hibernation mode, and sending a user status indicator to a server based at least in part on the presence detector.

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **27** and **34**, Frengut et al. discloses the method of claims 23 and 32, respectively, wherein:

- receiving a presence indicator from a remote presence detector includes receiving a first identity indicator from an identity detector (the user enters his/her username and password)(p. 2, paragraph 26); and

- selecting a first information delivery action record based at least in part on the presence indicator includes selecting a first information delivery action record based at least in part on the first identity indicator (the web page is generated dynamically based on which particular user accesses the system(p. 2, paragraph 26 & p. 3, paragraphs 29, 30).

Referring to claim **28**, Frengut et al. discloses the method of claim 27, wherein each information delivery action record of at least a subset of the one or more information delivery action records including a user identifier field to store a user identifier and an information delivery action instruction field to store an information delivery action instruction (the examiner notes that formatting and layout instructions are stored in association with the user profile)(p. 2, paragraph 26).

Referring to claim **35**, Frengut et al. discloses the method of claim 34, wherein the first information delivery action includes determining whether the first user is authorized to receive information from the information delivery system (the user must register and enter his/her username and password upon accessing the system)(p. 2, paragraph 26 & p. 3, paragraph 30).

Referring to claims **47**, see the rejection under 35 USC 112, first paragraph above. Frengut et al. discloses the method of claim 23, the information delivery action comprising one of refreshing a web page, deactivating a screen saver, requesting information from a predetermined network address (p. 2, paragraph 26), requesting e-mail messages, executing an application, powering on the information delivery system, adjusting the volume of an information delivery system, tuning the information delivery system to select a channel, exiting a

power-saving mode, exiting a hibernation mode, and sending a user status indicator to a server based at least in part on the presence detector.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **1**, **4-11**, **13-18**, **21**, **45**, **46** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. (I) (US 2002/0144259) in view of Gutta et al. (II) (US 2002/0194586).

Referring to claims **1**, **15**, and **17**, Gutta et al. (I) discloses a system for remote presence recognition information delivery, the system comprising:

- an information delivery system (p. 1, paragraph 12; p. 2, paragraph 18; & Fig. 1); and
- a remote presence detector (audio/visual capture device 150) coupled to the information delivery system, the remote presence detector detecting presence of a user in a vicinity proximate to the information delivery system while the user is not in physical contact with each of the information delivery system and the remote presence detector, the remote presence detector creating a presence indicator, the remote presence detector further communicating the presence indicator to the information delivery system, the information delivery system executing an

information delivery action (p. 1, paragraphs 13-15; p. 2, paragraphs 17, 22-24, 26; p. 3, paragraph 27; & Figs. 1-4), the information delivery action comprising a time value for executing the action (the media player 160 enters a power save mode if the user remains out of the room for a predefined minimum time interval)(p. 2, paragraph 23 & Fig. 3).

Gutta et al. (I) further maintaining multiple profiles that record various preferences of each user (p. 2, paragraphs 19, 20 & Fig. 2). Gutta et al. (I) does not specifically disclose that the information delivery action comprise a time range value for maintaining the action. Gutta et al. (II) discloses a detection system 22 that senses when a user 40 is in a predetermined viewing area proximate a television (p. 2, paragraph 17). Using the detection system 22, a profile processor 34 automatically detects which users 40 of the plurality of entertainment system users 40 are currently using entertainment system 20 or are within viewing area 11 of entertainment system 20. Using the detected users 40, profile processor automatically creates a composite user profile based on the profiles of each of the plurality of users (p. 2, paragraph 20). Recommended entertainment options are selected for the detected users based on the composite profile (p. 2, paragraph 24). User preferences are weighted by time of day to determine which preferences to use. For example, a three year-old child may have the highest priority in the morning, but may have zero priority in the evening (p. 3, paragraphs 29-32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the multiple profiles of Gutta et al. (I) to be weighted by time of day, such as that taught by Gutta et al. (II) in order to automatically detect a plurality of users and decide which shows are to be recommended or

shown depending upon which shows are being transmitted during a time-frame (Gutta et al. (II) p. 1, paragraph 9).

Referring to claim **4**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 1, the remote presence detector selected from the group comprising an ultrasonic presence detector, an infrared presence detector, a radio frequency presence detector, and a visible light spectrum detector (camera for capturing image or video image information)(Gutta et al. (I) p. 1, paragraph 13).

Referring to claim **5**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 4, the visible light spectrum detector comprising a video camera (Gutta et al. (I) p. 1, paragraph 13).

Referring to claim **6**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 5. The combination of Gutta et al. (I) and Gutta et al. (II) does not specifically teach that the video camera comprises a charge coupled device. Applicant's failure to adequately traverse the Examiner's taking of Official Notice (that it is well known within the prior art to use a charge-coupled device in a video camera) in the last Office Action is taken as an admission of the fact(s) noticed. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the camera of Gutta et al. (I) in the combination of Gutta et al. (I) and Gutta et al. (II) to include a charge coupled device, such as that taught by the admitted prior art in order to reduce the cost of a video camera

Referring to claim **7**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 1, further comprising user profile data 200, the user profile data coupled to the information delivery system (Gutta et al. (I) p. 2, paragraph 16 & Fig. 1).

Referring to claim **8**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 7, wherein the information delivery system is configured to take an information delivery action based at least in part on the presence indicator and the user profile data (Gutta et al. (I) p. 2, 3, paragraphs 24-27 & Fig. 4).

Referring to claim **9**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 1, the remote presence detector configured to send an identity indicator to the information delivery system, the information delivery system configured to take the information delivery action based at least in part on the identity indicator (Gutta et al. (I) p. 2, 3, paragraphs 24-27 & Fig. 4).

Referring to claim **10**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 9, further comprising user profile data, the user profile data coupled to the information delivery system, the user profile data including one or more user identifiers (Gutta et al. (I) Figs. 1, 2).

Referring to claims **11** and **16**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claims 10 and 15, respectively, the user profile data comprising one or more information delivery action records, each information delivery action record comprising a user identifier field to store a user identifier and an information delivery action instruction field to store an information delivery action instruction associated with the user identifier field (Gutta et al. (I) Fig. 2).

Referring to claims **13** and **14**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 1, wherein the remote presence detector is configured to determine that a user is in the vicinity of the information delivery system when the user is not speaking at

least in part on a user moving from a first location to a second location, each of the first location and the second location being remote from the remote presence detector and the information delivery system (the user event monitoring process processes video information to determine if the user is out of the room or away from the vicinity of the media player)(Gutta et al. (I) p. 2, paragraphs 23, 24).

Referring to claim **18**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 15, wherein the remote presence detector includes a remote identity detector, the remote presence detector configured to send an identity indicator to the information delivery system, the information delivery system configured to take an information delivery action based at least in part on the identity indicator and the user profile data (Gutta et al. (I) p. 2, 3, paragraphs 24-27 & Fig. 4).

Referring to claim **21**, see the rejection under 35 USC 112, first paragraph above. The combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 15, the information delivery system comprising one of a computer (Gutta et al. (I) p. 2, paragraph 18), an internet appliance, a web television system, a home entertainment system (Gutta et al. (I) p. 2, paragraph 18), an audio system (Gutta et al. (I) p. 2, paragraph 18), an audio-video system (Gutta et al. (I) p. 2, paragraph 18), a television system (Gutta et al. (I) p. 2, paragraph 18), and a stereo system.

Referring to claims **45** and **46**, see the rejection under 35 USC 112, first paragraph above. The combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claims 1 and 15, respectively, the information delivery action comprising one of refreshing a web page, deactivating a screen saver, requesting information from a predetermined network address,

requesting e-mail messages, executing an application, powering on the information delivery system, adjusting the volume of an information delivery system (Gutta et al. (I) p. 1, paragraph 15), tuning the information delivery system to select a channel (Gutta et al. (I) p. 1, paragraph 15), exiting a power-saving mode, exiting a hibernation mode, and sending a user status indicator to a server based at least in part on the presence detector.

3. Claims **19**, **20**, **22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. (I) (US 2002/0144259) in view of Gutta et al. (II) (US 2002/0194586) and further in view of Frengut et al. (US 2002/0046099).

Referring to claims **19**, **20**, and **22**, the combination of Gutta et al. (I) and Gutta et al. (II) teaches the system of claim 18. The combination of Gutta et al. (I) and Gutta et al. (II) does not teach that the information delivery system includes a web browser, the web browser to request web page information based at least in part on the identity indicator. Frengut et al. discloses providing a user with a web browser for accessing the Internet in a television environment (p. 8, paragraphs 63, 64). Users access the network and identify themselves by entering a user name and password. A host server then generates a custom web page for the user according to preferences stored in a user profile and presents the web page to the user (p. 2, paragraph 26). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta et al. (I) and Gutta et al. (II) to include network access to a server that generates a custom web page upon identifying a user, such as that taught by Frengut et al. in order to disseminate information over the Internet to consumers that have indicated a high interest in particular subject matter (Frengut et al. p. 1, paragraph 7).

4. Claims **25, 26, 29-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. (US 2002/0046099) in view of Gutta et al. (I) (US 2002/0144259).

Referring to claim **25**, see the rejection under 35 USC 112, first paragraph above. Frengut et al. discloses the method of claim 23. Frengut et al. further discloses implementing the method in conjunction with technology that combines television and computers. Frengut et al. does not disclose that the remote presence detector be a visible light spectrum detector. Gutta et al. (I) discloses a media player controller in a computer, television, set-top terminal, or other electronic device (p. 2, paragraph 18) with a camera for capturing image or video information (visible light spectrum detector) to identify one or more predefined user activities or events (p. 1, paragraph 13). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the user action detection of Frengut et al. to be detected by a camera for identifying one or more predefined user activities or events, such as that taught by Gutta et al. (I) in order to monitor user activity and automatically adjust an electronic device in response to a user activity (Gutta et al. (I) p. 1, paragraph 4).

Referring to claim **26**, the combination of Frengut et al. and Gutta et al. (I) teaches the method of claim 25. The combination of Frengut et al. and Gutta et al. (I) does not specifically teach that the camera include a charge coupled device. Applicant's failure to adequately traverse the Examiner's taking of Official Notice (that it is well known within the prior art to use a charge-coupled device in a video camera) in the last Office Action is taken as an admission of the fact(s) noticed. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the camera of Gutta et al. (I) in the combination of Frengut et

al. and Gutta et al. (I) to include a charge coupled device, such as that taught by the admitted prior art in order to reduce the cost of a video camera.

Referring to claims **29-31**, Frengut et al. discloses the method of claim 23. Frengut et al. does not disclose that the remote presence detector is configured to determine that the user is not speaking, to determine that the user is not in the vicinity of the information delivery system while the user is not in physical contact with each of the remote presence detector and the information delivery system, and to determine that the user is in the vicinity of the information delivery system based at least in part on a user moving from a first location to a second location, each of the first location and second location being remote from the remote presence detector and the information delivery system. Gutta et al. (I) discloses a user event monitoring process that processes video information from a camera to determine if the user is out of the room or away from the vicinity of a media player (p. 2, paragraphs 23, 24 & Figs. 1, 3). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the username and password identification action of Frengut et al. to include identification of the user with a camera, such as that taught by Gutta et al. (I) in order to adjust an electronic device in response to a user activity (Gutta et al. (I) p. 1, paragraph 4).

5. Claim **36** is rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. (US 2002/0046099) in view of Stas et al. (US 6,025,869).

Referring to claim **36**, Frengut et al. discloses the method of claim 34. Frengut et al. does not disclose that the first information delivery action includes determining whether the first user has exceeded an information delivery access allocation. Stas et al. discloses a system in which a

total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the profiles of Frengut et al. to include the option of setting a total time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

6. Claims **37, 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frengut et al. (US 2002/0046099) in view of Gutta et al. (II) (US 2002/0194586).

Referring to claims **37** and **38**, Frengut et al. discloses the method of claim 34. Frengut et al. does not disclose receiving a second identity indicator from the identity detector and selecting a second information delivery action record based at least in part on the second identity indicator. Frengut et al. further does not disclose determining which of the first information delivery action and the second information delivery action has priority over the other. Gutta et al. (II) discloses automatically detecting which users are within a viewing area of a system and automatically creating a composite user profile based on the profiles of each of the plurality of users in the viewing area (p. 2, paragraph 20). Weighting factors are applied to the user profiles to determine which of the user profiles has higher priority (p. 3, paragraphs 29, 32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Frengut et al. to include creating a composite user profile that prioritizes each user's profile, such as that taught by Gutta et al. (II) in order to better target consumers (Frengut et al. p. 1, paragraph 7).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH

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PRIMARY PATENT EXAMINER